IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 22ND NOVEMBER 2006 / 1ST AGRAHAYANA 1928

Crl.MC.No. 4242 of 2003()

CC.218/1997 of JUDL.MAGISTRATE OF FIRST CLASS COURT-V, TRIVANDRUM
(L.P.NO.60/2001)

.....

PETITIONER: ACCUSED

LOBO ALBERT, S/O. ALBERT, T.C. 33/657,
PONVELIL HOUSE, NEAR KANNANTHURA, TRIVANDRUM.

BY ADV. SMT.K.L.LAKSHMI RANI
A.C.DEVI

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR SRI GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 22/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.M.C.NO.4242 of 2003

DATED THIS THE 22nd DAY OF NOVEMBER 2006

ORDER

The petitioner, who is the accused in L.P.No.60/2001in the file of the Judicial First Class Magistrate Court-V, Trivandrum with respect to the offences under Sections 143,147,148,149, 447 and 353 of the Indian Penal Code, has sought for getting quashed the proceedings on the allegation that on 11-12-1996 at 11.10 p.m. the petitioner along with other accused persons formed themselves into an unlawful assembly and armed with deadly weapons trespassed into the airmen mess to cause hurt to CW2 and deterred him from discharging his official duties etc. According to the petitioner, he did not receive any summons. It is further pointed out that the rest of the accused were tried and acquitted. The petitioner has also produced the judgment in C.C.No.218/1997, the original case when it can be seen that the prosecution has failed to produce the witnesses. The petitioner has relied on the decision reported in **Joy v. Sate of Kerala, 2002(3)KLT 425.**

2. I find that the above cited decision is no longer good law in view of the Full Bench decision of this Court in **Moosa v. Sub**

Inspector (I.L.R.2006(1)Ker.237). I find that the acquittal of the co-accused is no ground to quash the proceedings. In the result the Crl.M.C.is dismissed.

K.R.UDAYABHANU, JUDGE

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K.R.UDAYABHANU, J

CRL.M.C.NO.4242 OF 2003

ORDER

22-11-2006